**Strategy and RFD:**

*Jessica read this aff that I still don’t understand, but it was contractarian to an extent. I read presumption flows neg, some crime offense and util framework, analysis on the neg offense turning the aff offense, a turn, and a T shell. In the 1ar she went for a counter interp, an RVI, and the AC. I dumped on the RVI in the 2n, extended my shell and answered hers, and extended the turn on her case. She went primarily for Theory/T in the 2a. Matt Kawahara voted off of the RVI and the debatability standard under the counter interp.*

**PRESUME NEG**

1) The aff has the strategic advantages of a) of laying out the termsof the debate in the first speech b) having almost half of the speechtime pre-written, and c) getting the last word in every debate, neg needs presumption to off-set those advantages.

2. The Aff gets the last word in every debate, so the burden should be on the aff to ensure that there is still offense in the round in the 2AR. Don’t punish me for her lack of strategy. The rest of the debate might be unfair, but presumption is unfair for the neg.

**3.** To negate is defined as, “to deny the truth of,” therefore negating requires no positive justification.

**4.** To counteract the aff ability to change its advocacy in the 1AR by running an expansion or severing, while the neg has to choose its advocacy in the NC.

**AT AFF Timeskew**

1) Turn, negs time is skewed because the Affirmative gets two speeches to run new offensive arguments, the AC and 1AR while I can only make arguments in the NC, so the timeskew is qualitatively and quantitatively worse for me as I lose the entirety of NC offense and am forced to start the debater over again on their terms.

**Contention 1: Offenders admit that punishment deters crimes.**

Criminologist’s interviews with juveniles reveals that punishment deters **violent crimes** and reduces recidivism. **Redding**

Although only 40% of the **participants reported** considering the chances of getting caught when they committed the offense, **they felt the transfer law would have deterred them had they been aware that they could** be tried as an adult and **receive a lengthy** adult **sentence.** As one juvenile said, “What are you talking about? I’m not doing ten years!” **Overall, they felt that the consequences** of committing the crime **were worse than they had expected. Seventy-six percent thought that being in** jail or **prison would make it less likely that they would commit crimes in the future;** “I don’t want to go through this again,” one participant commented.In comparison to the sanctions they had received in the juvenile court (which many characterized as “a slap on the wrist”), **many felt that** their experiences in **the criminal justice system had finally taught them that there will be serious consequences if they commit crimes:** “This ain’t no juvenile daycare—I’m facing real time now.” “[Being tried as an adult] showed me it’s not a game anymore. Before, I thought that since I’m a juvenile I could do just about anything and just get six months if I got caught. So, I didn’t care and thought I could get away with anything.” The juveniles said they had offended previously inpart because they perceived that the chances of getting caught and receiving a serious sanction were slim.[[1]](#footnote--1)

This evidence comes first in the round:

1. Only criminals can truly know why they act the way they do and what works best, so it’s a direct source.
2. Empirics and studies are always tainted by current trends in the world or by uncontrolled factors, direct interviews always come before imperfect studies. Also, the fact that there are so many studies with opposite conclusions supercharges this argument.

Also, deterrence outweighs all other impacts because it controls the internal link to recidivism mattering as well as preventing the initial unbeneficial crime from occurring in the first place. However, Redding also speaks to recidivism so that functions as a turn that outweighs because of data source.

**Contention 2: Rehab doesn’t affect recidivism in any positive way.**

An extensive study concludes that rehabilitation has NO positive effect on recidivism. **NCPA** [[2]](#footnote-0)

The most devastating blow to the theory was Robert Martinson’s exhaustive study. **Martinson examined every available report on rehabilitation techniques published** in English **from 1945 to 1967**, **drawing on 231 studies**. **He found that** “with few and isolated exceptions, **the rehabilitative efforts that have been reported so far have** **had no** appreciable **effect on recidivism**.”48 Relatively little comparable research has materialized to refute Martinson’s analysis, although this has not been from want of effort.49 A possible exception may be a modest superiority for the better-designed interventions in the outcomes of juveniles, and some researchers still believe that “appropriate correctional service” and treatment can cut recidivism sharply for other criminals, too.50

**AND,** prefer Martinson’s Study:  
(A) Only study that evaluated when rehab was actually implemented, so it comes before his studies that predict what will happen if we implement. It failed when we did so.

(B) It was conducted over 22 years, so it solves for temporal bias which is key on this topic because criminal patterns fluctuate. Time frame of study outweighs recency becauseit doesn’t matter if a study is recent if it only evaluates a short-term trend.

**CONTENTION 3:**

Rehabilitation comparably failed when evaluating recidivism and violent crimes. **Fishman**[[3]](#footnote-1)**:**

**Rehabilitation** by the Projects **Was** Considered To Be **a Failure.** The failure of the projects was particularly evident with young clients, and **in relation to violent crime.** Overall, the judgment of failure is based upon the magnitude and severity of the criminal recidivism of project clients of all ages which resulted in great cost to both society and to the victims.53 **Failure** **is** also **indicated** **by** **comparison** **of** some project outcomes with those of **a** "**control**" **group**. Cost of Recidivism to Society and Victims.Of the 2,860 clients from seven to seventy-one years of age, 1,182, or **41%, were arrested** a total of 2,072 times during the twelve months **after project entry. These arrests reflect several thousand victims** and many millions of dollars in the costto victims of theft, property damage and injury**.** However, of the 2,072 arrests, 605 **(29%) were for violent crimes.** This means that **about fifty persons may have been killed or raped and 555** robbed or **severely assaulted by these recidivist clients.** This portion of the outcome is the main reason for the conclusion that the human costs of this recidivism are too high.Nor does this conclusion change if the cost is examined for each of the thirteen types of clients shown on Table 3 by age and prior arrests. For example, the comparatively "good" 29% recidivism rate of the 134 clients in the thirty-to-thirty-nine age group does not show that, out of their 147 arrests, about one in five was for a violent crime. When the results of representatives of the primary target groups54 are examined, **most outcomes are actually worse than the summary statistics for all** 2,860 **[three thousand] clients .**55It could be asserted that a 41% recidivism rate indicates that 59% of the clients were successfully rehabilitated. They were non-recidivists. This assertion, however, is not acceptable.When measured in terms of serious and violent crimes, the consequences of recidivism are qualitatively different than those of other measures such as failure to pass a test in reading achievement or job skills. Failure or recidivism in the context of serious or violent crime implies the presence of victims.

Prefer this study:

1. It compared control groups that tested punishment only so it’s a direct comparison to the resolution.
2. It evaluated about 3k people.
3. The study did follow up exams, which is key to ensuring the impact sticks.
4. It’s specific to violent crime, so even if he wins his study is better than mine, I still outweigh because I show that retribution decreases violent crime specifically.

**FRAMEWORK**

**First,** Governments must be focused on ends.

(A) The obligation of policy-makers is to maximize ends since they only know generalities. **Goodin**[[4]](#footnote-2)

My larger argument turns on the proposition that there is something special about the situation of public officials that makes utilitarianism more probable for them than private individuals. Before proceeding with the large argument, I must therefore say what it is that makes it so special about public officials and their situations that make it both more necessary and more desirable for them to adopt a more credible form of utilitarianism. Consider, first, the argument from necessity. Public officials are obliged to make their choices under uncertainty , and uncertainty of a very special sort at that. All choices – public and private alike – are made under some degree of uncertainty, of course. But in the nature of things, private individuals will usually have more complete information on the peculiarities of their own circumstances and on the ramifications that alternative possible choices might have for them. Public officials, in contrast, are relatively poorly informed as to the effects that their choices will have on individuals, one by one. What they typically do know are generalities: averages and aggregates. They know what will happen most often to most people as a result of their various possible choices, but that is all. That is enough to allow public policy-makers to use the utilitarian calculus – assuming they want to use it at all – to chose general rules or conduct.

(B) The gov has to justify actions to their people, which means only ends can matter because they have visible effects. IE if a gov chooses between saving 10 lives and 100 lives, even if the hundred violates a side constraint, the only way the gov can justify an action to people is by saving the 100.

**Second,** value is contingent upon experiencing that value, which means all moral theories reduce to ends. **Harris**

I believe that we will increasingly understand good and evil, right and wrong, in scientific terms, because moral concerns translate into *facts* about how our thoughts and behaviors affect the well-being of conscious creatures like ourselves. If there are facts to be known about the well-being of such creatures—and there are—then there must be right and wrong answers to moral questions. Students of philosophy will notice that this commits me to some form of moral realism (viz. moral claims can really be true or false) and some form of consequentialism (viz. the rightness of an act depends on how it impacts the well-being of conscious creatures). While moral realism and consequentialism have both come under pressure in philosophical circles, they have the virtue of corresponding to many of our intuitions about how the world works. Here is my (consequentialist) starting point: **all questions of value** (right and wrong, good and evil, etc.) **depend upon the possibility of experiencing such value**. **Without** potential **consequences at the level of experience**—happiness, suffering, joy, despair, etc. —**all talk of value is empty.** Therefore, **to say that an act is moral**ly necessary, or evil, or blameless, **is to make** (tacit) **claims about its consequences in the lives of** conscious **creatures** (whether actual or potential).I am unaware of any interesting exception to this rule. Needless to say, if one is worried about pleasing God or His angels, this assumes that such invisible entities are conscious (in some sense) and cognizant of human behavior. It also generally assumes that it is possible to suffer their wrath or enjoy their approval, either in this world or the world to come. Even within religion, therefore, consequences and conscious states remain the foundation of all values.

Puts his theory in the double bind, either (a) we experience it and it reduces to consequences, or (b) we don’t experience it and it has no effect on us.

**Third,** maximizing life comes prior to any other ethical evaluation. **Rasmussen**[[5]](#footnote-3)

In so far as one chooses, regardless of the choice, one must choose (value) man's life. **It makes no sense to value some X without also valuing that which makes the valuing of X possible** ~: notice that this is different from saying "that which makes X possible"). If one lets X be equivalent to "death" or "the greatest happiness for the greatest number," one is able to have such a valuation only because of the precondition of being a living being. **Given that life is a necessary condition for valuation, there is no other way we can value something without also** (implicitly at least) **valuing [life].**that which makes valuation possible.

**AT NO RETRIBUTION UTIL OFFENSE**

1. Retributivism is compatible with consequentialism because guilt is just a side constraint---there is a distinction between justifications for punishment and justifications for the practice---this view is also held by the majority of political thinkers today—this evidence is PHENOMENAL. **Dubber and Kelman 12**[[6]](#footnote-4)

Retributivism comes in two forms—positive, or pure, and negative, or limiting. Positive retributivism considers the offender’s desert a necessary and sufficient precondition of punishment; negative **retributivism considers desert only a necessary precondition.** Consequentialism comes in several varieties. “**Crime control” tends to be the end** for the sake of **which punishment is justified on consequentialist grounds**. The various consequentialist theories differ on just how crime is to be prevented. **Rehab**ilitation **prevents crime by curing the offender** of her abnormal criminal propensities, for her own and the community’s sake. Incapacitation **[retribution] prevents the** abnormally dangerous **offender from committing crime**, not by curing her, but **by** **making** it **impossible for her** **to** (or at least limiting the circumstances in which she can) **act on her tendencies.** And deterrence prevents crime by scaring the offender away from future crime (specific deterrence) or by making an example of the offender to others, thus scaring them away from crime (general deterrence).

When thinking about the justification of punishment, it’s a good idea to differentiate between two aspects of the problem of punishment: why punish in general? And why punish in a particular case? Put another way, **we need to justify not only the *institution* of punishment in the abstract, but also the *distribution* of punishment in specific cases.**

Note that one of the advantages of splitting the problem of punishment in two is that it makes mixing and **matching of theories of punishment [is] possible.** Now we can have our cake and eat it too. If we like, **we could combine utilitarianism on the general institutional question with retributivism on the specific distributive question.** **This**, in fact, was the view of the scholar who first drew the distinction, the British legal philosopher H.L.A. Hart. See H.L.A. Hart, “Prolegomenon to the Principles of Punishment,” in Punishment and Responsibility 1 (1968). And it probably **qualifies as the majority view among American** commentators, **legislators, and judges today.**

I sidestep her interp, this is the common view that co-opts reasons to prefer.

1. Ought is defined as maximizing wellbeing. **Harris**[[7]](#footnote-5)

**If** this notion of **“ought” means anything** we can possibly care about, **it** **must** **translate into a concern about** **the** actual or potential **experience** **of** conscious **beings** (either in this life or in some other). For instance, **to say that we *ought* to treat children with kindness seems identical to saying that everyone will tend to be better off if we do.** The person who claims that he does not want to be better off is either wrong about what he does, in fact, want(i.e., he doesn’t know what he’s missing), or he is lying, or he is not making sense. The person who insists that he is committed to treating children with kindness for reasons that have nothing to do with anyone’s well-being is also not making sense. It is worth noting in this context that the God of Abraham never told us to treat children with kindness, but He did tell us to kill them for talking back to us (Exodus 21:15, Leviticus 20:9, Deuteronomy 21:18-21, Mark 7:9-13, and Matthew 15:4-7). And yet everyone finds this “moral” imperative perfectly insane. Which is to say that **no one** – not even fundamentalist Christians and orthodox Jews – **can** so fully **ignore the link between morality and human well-being** as to be truly bound by God’s law.

B - He conceded in CX that ought is not maximizing wellbeing.

**C - 1. Topic Education –** Util. forces us to talk about what actually happens in the real world because we have to use empirics and analyze the consequences of our actions. This promotes topic education because we have to research the effects of actions and research how those effects will come about, thus learning more about the topic in general. Topic education is key to education because we use it in the real-world to talk about current topics.

**2. .** **Ground –** Util. allows the most ground because a debater doesn’t just have to win the framework to win the round, but has to win the contention level as well. This gives more ground because framework cards are just recycled, we’ve heard the velleman card a million times. However, the topic changes every two months and there are endless supplies of new cards and arguments on substance. Ground is key to fairness because it forms the arguments I can make to win.

D - Fairness: Fairness is a voter because people wouldn’t compete if debate was unfair, also makes T a gateway issue to substance cause the round can’t be evaluated by a judge if it’s skewed, or not even topical. Fairness impacts are linear, even small violations result in kids quitting, which justifies drop the debater in order to prevent exclusion. Also, drop the debater (A) to deter future abuse; or else he will keep making abusive arguments and kicking them to gain a positive time trade off on theory, key to deterring future abuse (B) so that he can’t skew my strat in this round by conceding the interp then beating me on util, it would massively skew the round and (C) he already had a chance in cx for drop the argument, don’t let him drop the argument now – that proves the abuse. Otherwise he would have conceded in CX, it means HE’S BINDED TO HIS ADVOCACY.

Also, T is an issue of competing interps (A) otherwise neg can never run T cause aff will always claim to be “reasonably topical” (B) reasonability collapses to competing interps, we’ll debate the brightline for reasonable.

T counter-interps must have a counter definition, key to know what rule you’re endorsing.

E - Is clarification. Language is disjunctive- there are always multiple definitions for each word. For example, I can say that the ToC is cool and mean that ToC is a nice tournament, or a can say the same thing and mean that ToC has chilly temperature. Thus, topicality must look to which interp is better for debate, not which interp is most accurate because that just begs the question of accuracy.

**AT Topicality is an RVI**

1. Just because the affirmative is topical doesn’t mean the resolution is true, it’s logically nonsensical. Logic comes prior to the standards because those standards rely on logic, but also you can’t endorse something without endorsing the logic behind it.
2. Turn. Making T an RVI kills ground because it destroys incentive to run T even against a team that’s only slightly topical because they can just win that they are topical and that’s sufficient to win the round. This abuse outweighs the abuse of T itself since T is a necessary check on abusive affs, and people ought not have a disincentive to call out abuse.
3. Turn. “Even ifs” are key to neg strategy. “Even ifs” are the only way to check 2AR collapse on the topicality debate. If the neg can’t sent up an “even if” scenario, the aff can just rant for 3 minutes in the 2AR about why they are topical and the neg would have no way to check that. Thus T is an RVI is far more abusive than T itself.
4. T is just an answer like any other case answer. I shouldn’t have to go for T just as I shouldn’t have to go for a random argument I put on his case, arguments are weighable and comparable.
5. No abuse if T isn’t an RVI:
   1. He chose a definition favorable to him, if he wins defense as to why he’s topical than he gets the benefits of that being the definition we use for this round.
   2. He can make offensive arguments as to why his definition is **more** topical than the one I present or others, which are reasons to prefer his definition.

**AT RVI or T is a Time Suck**

1. Turn. The RVI is what makes it a time suck because he’s wasting his time making the RVI argument instead of moving onto substantive issues. Don’t **reward** him for over covering parts of the flow, it’s his strategic mistakes that make T a time loss.
2. She misses internals from reciprocity and time skew to fairness so don’t vote off them.
3. Extend and cross apply that it’s harder to negate from neg presumption, meaning that making the round harder for the aff is a good thing because it makes the round more reciprocal.

1. Richard Redding and Elizabeth Fuller [Villanova University School of Law Public Law and Legal Theory]. Working Paper no 2005-2Villanova. *Public Law and Legal Theory Working Paper Series* (January 2005). [↑](#footnote-ref--1)
2. Robert Martinson, “What Works? Questions and Answers about Prison Reform,” *The Public Interest*, Spring 1974, pp.

   22-54; a more extensive version appeared in Douglas Lipton, Robert Martinson and Judith Wilks, *The Effectiveness of Correctional*

   *Treatment* (New York: Praeger, 1975). [↑](#footnote-ref-0)
3. “An Evaluation of Criminal Recidivism in Projects Providing Rehabilitation and Diversion Services in New York City” Robert Fishman [Assistant Professor of Medicine at Northwestern University Medical School] 1977 Methodology: Pg. 285-294 [↑](#footnote-ref-1)
4. Robert Goodin, fellow in philosophy, Australian National Defense University, THE UTILITARIAN RESPONSE, 1990, p. 141-2 [↑](#footnote-ref-2)
5. Douglas Den Uyl and Douglas Rasmussen, Professors of Philosophy, Bellarmine College and St. John's University, READING NOZICK, Jeffrey Paul, ed., 1981, p245. (PDNSS1794) [↑](#footnote-ref-3)
6. Dubber and Kelman 12, Dubber, Markus D. [Professor of Law at SUNY Buffalo Law School] and Mark G. Kelman [Jurist and Vice Dean, Professor, Stanford Law School]. American Criminal Law: Cases, Statutes, and Comments 2nd Ed. Foundation Press. 2012. [↑](#footnote-ref-4)
7. Harris, Sam, The Moral Landscape, 2010. [↑](#footnote-ref-5)